

The CURE

Contract User's Resource for Excellence

The "CURE" is a quarterly newsletter of the State Controller's Office

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August 2005

News From The SCO

A State Controller's Office Update

CCIT MEETING

The August CCIT (Colorado Contract Improvement Team) meeting will be held on Wednesday, August 17th from 9:00 a.m. - 12:15 p.m. at the Denver National Guard Armory. The address is 5275 Franklin Street, Denver (please see page 5 for directions). If you have questions about the meeting, please call Yvonne Anderson at (303) 866-2862.

An agenda is included on page 7.

What's Inside this
Issue

- ⇒ **Changes to Chapter 10 regarding personal services (pages 2 & 3)**
- ⇒ **Fiscal Rules changes related to state contracting (pages 4 & 5)**

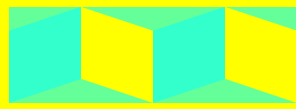
New CCIT Group E-Mail Subscription Service

The CCIT / CURE e-mail list is now by **subscription only**. To subscribe, send an empty e-mail to the address listed below and follow the instructions or contact Kevin Cruise at kevin.cruise@state.co.us

dpalists-ccit_cure-subscribe@dpa1.state.co.us

Central Approvers Names and Numbers

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State Controller's Office (SCO)		
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Human Resource Services (HRS)		
<u>Personal Services Review Program</u>		
Joi Simpson	303-866-5496	303-866-2458
Don Fowler	303-866-4250	303-866-2458
<u>State Buildings and Real Estate Programs (SBREP)</u>		
Larry Friedberg (SB)	303-866-3079	
Dana Stansbury (SB)	303-866-6141	303-894-7478
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Mike Karbach (REP)	303-866-4564	303-866-2201
<u>State Purchasing (SPO)</u>		
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Bea Pagette	303-866-5227	303-866-4139
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An Important Note from the Personal Services Program -

Changes to Director's Rules Chapter 10

By Joi Simpson, Program Coordinator

BACKGROUND: As of July 1, 2005, the State Personnel Director's rules for Chapter 10, Personal Services went into effect. Chapter 10 has been restructured to continue the streamlining effort in the review and approval process for personal services contracts and to better define the appropriate analysis for entering into personal services contracts to effectively manage the labor needs of the state.

The reorganization of the chapter focuses on a more logical approach to analyzing how labor needs should be carried out for the state. The analysis is a balance of determining the business needs while ensuring employees' rights are not violated. Departments should keep in mind that the constitution presumes preference for ongoing labor needs to be performed within the state personnel system. Through careful analysis, departments are responsible for determining if services can be performed cost effectively in-house or through a personal services contract.

Departments will be responsible for ensuring compliance with part 5 of title 24, article 50, and Chapter 10 of the Director's Rules, through formal delegation. DHR will continue to audit compliance through the State Procurement Peer Review process.

CHANGES TO CHAPTER 10:

Chapter 10 is divided into four sections:

- Determining the business case;
- Evaluating the potential impact on state employees;
- Contract process requirements; and,
- Notification and review process.

DETERMINING THE BUSINESS CASE: This area was developed to ensure departments could demonstrate and support sound business reasons for outsourcing some of the labor needs of state government. The business case needs to include discussions on government/contractor accountability, an analysis of cost, and the level of quality that will be obtained. This requirement is not completely new. To some degree, this level of analysis is required for those outsourced contracts that fall under C.R.S. 24-50-503. However, what is new is that departments will be required to demonstrate the business case for all contracts, regardless of their type, to better support the most cost effective means to carry out the labor needs of the state.

EVALUATING THE IMPACT: Evaluating the impact on the state personnel system is not a new concept and is designed to protect the integrity of the state personnel system. Departments need to consider if resources can be shared within a geographical area and are required to evaluate the practicality of performing the service in-house and investing in capital equipment, or outsource the service.

In addition, departments can no longer retain a state temporary employee after six-months of employment as a contract worker performing the same or different function. However, the same individual may be retained by a different department in a temporary 6-month position or a contract. This rule was put into affect in light of the recent Supreme Court decision on Microsoft, to mitigate any potential liability to the state in regards to employees being misclassified as independent contractors.



An Important Note from the Personal Services Program cont.

CONTRACT PROCESS REQUIREMENT : Depending on the nature of the contract, departments are required to include contract provisions addressing consequences and potential mitigation of improper or failed performance, clearly defined measurements of performance, sanctions for untimely performance, and provisions concerning the orderly transition of functions between the department and the contractor for implementation and termination.

NOTIFICATION AND REVIEW PROCESS: This notification and review process is new. Departments that propose to eliminate state personnel system positions must notify directly impacted employees 30 days prior to contract execution. This will allow time for employees to request a State Personnel Director's review if they feel there is a violation of statute or rule.

IMPLEMENTATION: Chapter 10 technical assistance is in the process of being finalized and is expected to be out sometime in August. Attention will then turn to training. Departments should continue to operate as usual and all current waivers, including the statewide waiver process, are still in effect. However, Departments need to implement their notification process in compliance with rule 10-5. Departments will be notified when the technical assistance and forms are available, at which time human resource administrators can begin modifying their internal programs and bring others involved with personal service contracts up to speed. In the meantime, if departments have specific technical questions please feel free to contact Joi Simpson at 303.866.5496 or joi.simpson@state.co.us.

Training

PCP certification is offered for personal services contracts review. Both courses as described below are required for human resource employees seeking certification. Both courses have been updated to include information on recent changes made to Chapter 10.

Level I is basic training on personal services contracts. Topics include what you need to know to begin reviewing personal service contracts, the requirements for HR professionals, an overview of applicable statutes and Director's rules, flow charts of the contract review process, and the basics for determining independent contractor status. All classes are scheduled from 8:30 a.m. to 4:30 p.m.

Schedule:

October 5, 2005
December 14, 2005

Level II is advanced training focused on the required elements of cost comparisons and completion of the cost comparison form, as well as the appropriate application of pertinent statutes and Director's rules. All classes are scheduled from 9:00 a.m. to 3:00 p.m.

Schedule:

September 8, 2005
November 16, 2005
January 11, 2005

To reserve a seat please contact Judi Karg at 303.866.2391 or judi.karg@state.co.us.

CHANGES TO STATE FISCAL RULES EFFECTIVE AUGUST 1, 2005

By Phil Holtmann, Central Contract Unit Supervisor, State Controller's Office

There were several changes made to the State Fiscal Rules that became effective on August 1, 2005 that modified Fiscal Rule 2-2 Commitment Vouchers, 3-1 State Contracts, and 4-1 Capital Construction Administration. Some of these changes affect the use of commitment vouchers for state agencies. The following is a summary of the changes to these rules, but all agencies are encouraged to obtain a complete copy of the newly issued Fiscal Rules and review all of the rules thoroughly and completely.

Fiscal Rule 2-2 Commitment Vouchers

The requirement of the use of a commitment voucher for all purchases exceeding \$5,000 has not changed.

The advance payment policy has been added to this Fiscal Rule, which makes it effective to purchase orders as well as state contracts. These means that a Fiscal Rule waiver must be submitted by the agency's Chief Financial Officer to the SCO for any purchase order or state contract that contains an advance payment unless the payment is for one of the approved items listed on Page 19 and 20 of the new Fiscal Rules. There have been two new items added to the previous list and the inclusion of a policy that allows an agency controller to approve advance payments up to \$10,000 under certain conditions.

A requirement has been added to the rule that requires agencies to ensure that commitment vouchers adequately define the requirements, performance obligations, and pricing, and that prices are fair and reasonable and that risks are reasonably allocated between the parties.

The purchase of insurance has been added to the list of payments that do not require the issuance of a commitment voucher.

The rule governing changes to purchase order terms and conditions has been changed to allow the issuing agency to delete any terms and conditions when issuing a purchase order to another state agency. The rules for changes to the terms and conditions for non-state entities have not changed.

Fiscal Rule 3-1 State Contracts

The definition of an "Outsource Contract" has been expanded to better explain when that situation exists. New definitions for "Contracting Out" and "Granting Franchises" have been added.

Continued on page 5

CHANGES TO STATE FISCAL RULES

The requirement for the use of a state contract when acquiring personal services has changed from \$50,000 to \$100,000. None of the other requirements for using state contracts have changed. Professional services still require a contract for all services unless a fiscal rule waiver has been granted by the SCO. In addition, the Attorney General's Office or the SCO should be contacted for assistance when questions arise concerning the requirement to use a contract to protect the interests of the state when other commitment vouchers are not considered sufficient.

There is a change to the maximum dollar amount requirement that now requires a maximum dollar amount to be included for each year of a multi-year contract. The required language to be used when a maximum dollar amount cannot be determined has been changed for both one year and multi-year contracts. The new language is on Page 38 and 39 of the new Fiscal Rules.

The review and approval of contracts by the State Controller has been restored to match the responsibilities assigned to the State Controller by state statute.

The State Controller's ability to delegate authority to other individuals to sign state contracts has been clarified to restrict all delegations of authority to only those types of contracts that are specifically identified in an agency's letter of delegation. If a specific type of contract has not been delegated to an agency, then that contract must be signed at the SCO.

Fiscal Rule 4-1 Capital Construction Administration

The requirement for use of a state contract when acquiring construction services, **not professional services**, has increased from \$50,000 to \$100,000. Use of a purchase order in excess of \$100,000 for construction services requires the specific approval of the Director of the State Buildings Program.

DIRECTIONS TO THE DENVER NATIONAL GUARD ARMORY

From 1-70 —Washington Street to Exit 54th (Corvette Connection on the right) go to the end of the street and turn right onto Franklin, then right again a couple of blocks to the Armory (you can't miss the tank on the lawn). Go right to the end of the street to the parking lot and navigate the barriers (they are security devices). Park anywhere in the lot and come into the auditorium at the front of the building.

From North 1-25—Exit at 58th and go to Franklin, right on Franklin to the Armory (just beyond 54th), you can't miss the tank on the lawn. Go right to the end of the street to the parking lot and navigate the barriers (they are security devices). Park anywhere in the lot and come into the auditorium at the front of the building.

From Downtown—Broadway/Brighton Blvd to 38th (Pepsi Plant) turn left at 38th and follow around to Washington, under I-70 and then to 54th (Corvette Connection on right), turn right and go to the end of the street to Franklin, right again a couple of blocks to the Armory. Go right to the end of the street to the parking lot and navigate the barriers (they are security devices). Park anywhere in the lot and come into the auditorium at the front of the building.

IMPORTANT REMINDERS...

Colorado Contract Procedures & Management Manual

Note that Chapter 6 and Appendix A of the Contract Manual were recently updated and include changes to the insurance provisions and dollar thresholds. All those currently on the CCIT group email list were forwarded this information in early April 2005. If you are not set up on our email list, please contact Kevin Cruise in the SCO.

Note that all State Controller contract policies, the Fiscal Rules (specifically 2-2, 3-1 & 4-1) and the most updated version of the Contract Manual are conveniently located on the SCO website (www.sco.state.co.us). All contract, financial and purchasing personnel are encouraged to review these documents. If you need assistance or have questions, please feel free to call Phil Holtmann at 303.866.3809 or Yvonne Anderson at 303. 866.2862.

STATEWIDE CONTRACT TRAINING

Many new contracting classes will be available soon, and we are excited to offer these one day and half day courses. Brad Mallon, our professional trainer, will be one of our guest speakers at the CCIT meeting in August . He will be sharing information about these great new classes!! If you are not able to attend the August CCIT meeting and are interested in signing up for some training or need more information, you may call the Professional Development Center @ 303.866..4265 or 303.866.2439.



CCIT (Colorado Contract Improvement Team) Meeting

Wednesday, August 17, 2005
Denver National Guard Armory

Agenda

9:00 — 9:10 a.m.Welcome.....
Phil Holtmann, SCO

9:10—9:25 a.m.Update on Statewide Contracts Training.....
Brad Mallon, Professional Development Center

9:25—9:55 a.m.Personal Services Update.....
Joi Simpson, Human Resource Services

9:55— 10:20 a.m.Fiscal Rules Update.....
Phil Holtmann, SCO

B - - - R - - - E - - - A - - - K

10:40—11:25 a.m. National Contract Management Association Speaker

11:25 a.m.—12:10 p.m.Risk Management/Insurance Update.....
Markie Studwell, ARM-P/DPA

